

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

XCOAL ENERGY & RESOURCES,

Plaintiff,

v.

BLUESTONE ENERGY SALES CORPORATION,
SOUTHERN COAL CORPORATION, AND JAMES
C. JUSTICE, II,

Defendants.

C.A. No. 18-cv-819-LPS

AFFIDAVIT OF JAMES C. JUSTICE, III

I, James C. Justice, III, being first duly sworn, do attest and state as follows:

1. I am a citizen and resident of the Commonwealth of Virginia, over eighteen years of age.
2. I currently serve as President of Bluestone Energy Sales Corporation and Southern Coal Corporation (collectively, the “Entity Defendants”), among other affiliated entities, sometimes referred to as the “Justice Entities.”
3. In my role as President, I have final decision-making power with respect to all aspects of the business of the Justice Entities, including decisions regarding the conduct of litigation in which the Justice Entities are involved.
4. In June 2020, former in-house counsel for the Justice Entities, Jason E. Pepe, approached me to discuss the possibility of a virtual trial. I initially objected to that idea, however, I was not opposed to certain witnesses testifying remotely – recognizing the COVID-19 pandemic and its impact on travel and daily life.

5. This litigation involves millions of dollars in potential exposure for both parties. The ongoing operations of each company will likely be threatened if a substantial verdict is returned against either party. Simply put, this is “bet the company” litigation. This factored into my decision to object to a virtual trial.

6. In my experience with depositions, evidentiary hearings, and trials, the body language and demeanor of a witness are good indicators of that witness’ credibility, and I do not believe it is fair to either side to be denied their due process rights and the ability to present and observe in-person testimony. Credibility will be a key factor in this case and witnesses testifying in a virtual manner (and being cross examined in the same manner) will impair the Court’s capacity to judge the witnesses’ facial expressions, demeanor and overall credibility.

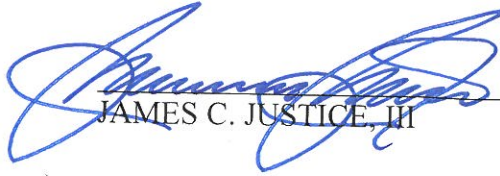
7. It is for these reasons that I did not give Mr. Pepe permission to agree to a virtual trial on behalf of the Entity Defendants. I also advised Mr. Pepe that my father, Governor James C. Justice, II, also a Defendant, wanted the trial to be conducted in-person.

8. We do not object to having a trial in this matter but with the utmost respect for this Court believe it must be conducted in person and when it is safe for all participants to attend in person.

9. Mr. Pepe is no longer employed by the Justice Entities.

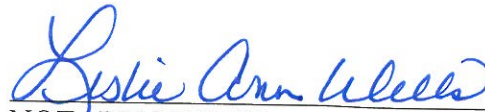
10. Counsel for Defendants are filing the Motion to which this Affidavit relates at my instruction.

Further Affiant sayeth naught.


JAMES C. JUSTICE, III

COMMONWEALTH OF VIRGINIA)
)
ROANOKE COUNTY)

Subscribed and sworn to before me by James C. Justice, III, on this the ____ day of August 2020.



NOTARY PUBLIC

Notary ID No. 7560729

My commission expires: 5-31-2021.

dhbpld2843

